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April 30, 2008

DEPARTMENT OF ENERGY
OFFICE OF HEARINGS AND APPEALS

Hearing Officer's Decision

Name of Case: Personnel Security Hearing

Date of Filing: November 21, 2007

Case Number: TSO-0567

This Decision concerns the eligibility of XXXXXXXXXXXX (hereinafter "the Individual") for access authorization (also referred to as a security clearance). The governing regulations are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." This Decision will consider whether, based on the testimony and other evidence presented in this proceeding, the Individual's suspended access authorization should be restored. For the reasons detailed below, I have concluded that the Individual's access should be restored.

I. Background

The Individual has worked at a DOE site and held a security clearance for about fifteen years. DOE Ex. 10 at 2. The Individual was evaluated by DOE consultant psychiatrists in 2001 (DOE Psychiatrist I) and 2007 (DOE Psychiatrist II).

In 2001, DOE Psychiatrist I evaluated the Individual for "psychiatric issues" and issued a report.¹ DOE Ex. 11 at 1. The Individual reported that, in 1995, he began feeling "anxious" and "sad," and he noticed that his activities diminished. *Id.* His wife's 1995 arrest and incarceration, as well as the responsibilities of a new job, caused him significant stress. *Id.* He originally tried to "tough it out" but, in 1998, his primary care physician put him on Xanax, which "helped him

¹ This report was submitted during the course of the proceeding and, for ease of reference, is designated as DOE Exhibit 11.

sleep." *Id.* A year later, he was started on Prozac and noted a "vast improvement" - he felt "no anxiety" and "his depression lifted." *Id.* In late 2000, the Individual suffered a neck injury and was prescribed "Vicoden and Naprosyn twice daily and Soma and Darvocet as needed for pain." *Id.* at 2. The Individual provided the names of three treating physicians: a primary care physician, an occupational medical specialist, and a neurosurgeon. *Id.*

DOE Psychiatrist I opined that the Individual suffered from "Prolonged Adjustment Disorder with mixed anxiety and depressed mood, in early remission." DOE Ex. 11 at 4-5, *citing* American Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders (4th ed. 2000) (DSM-IV). DOE Psychiatrist I concluded that the Individual did not have symptoms that would cause "a significant defect in judgment and reliability." *Id.* at 6. Accordingly, the Individual maintained his clearance.

In mid-2006, the Local Security Office (LSO) initiated a routine background investigation of the Individual. The Individual completed an electronic version of a Questionnaire for National Security Positions (the e-QIP). DOE Ex. 6. Question 21 asks for a list of persons providing mental health treatment over the past seven years. The Individual named a psychiatrist who was treating him from January 2006 to the "Present." *Id.* at 24. In the "Additional Comments" line, the Individual reported that the psychiatrist was treating him for depression. *Id.*

In early 2007, the LSO interviewed the Individual. DOE Ex. 5 (the "personnel security interview" or "PSI"). The Individual reported seeing the site psychologist (the Site Psychologist). *Id.* at 6. The Individual also reported that, in late 2006, he had completed a 28-day residential treatment program for prescription drug dependency. *Id.* at 14. Finally, the Individual described how his prescription drug dependency developed, citing stressors, anxiety, depression, and neck and knee surgery. *E.g., id.* at 7-28. The LSO referred the Individual to DOE Psychiatrist II, who evaluated the Individual and issued a report. DOE Ex. 3.

DOE Psychiatrist II diagnosed the Individual with "Polysubstance Dependency, by history." DOE Ex. 3 at 8, *citing* DSM-IV. Noting "favorable rehabilitative efforts over the past six months," the psychiatrist opined that "with an additional six months of abstinence," the Individual "would meet the criteria for becoming adequately rehabilitated." *Id.* at 11. Finally, the psychiatrist noted a history of anxiety and depression, but

opined that the Individual was successfully managing those conditions with non-addictive medication - Prozac and Wellbutrin.

The LSO interviewed the Individual again. DOE Ex. 4 (the second PSI). The Individual was asked for additional information about his and his wife's history of prescription drug use.

Roughly three months later, the LSO notified the Individual that the information in its possession raised a substantial doubt about his eligibility for a security clearance. DOE Ex. 1 (Notification Letter, Att., citing 10 C.F.R. § 708.8(k) (Criterion K, drug use) and § 708.8(f) (Criterion F, falsification). In support of the Criterion K charge, the Notification Letter cited the diagnosis of polysubstance dependency and alleged misuse of prescription medicine. DOE Ex. 1 at 2. In support of the Criterion F charge, the Notification Letter cited the Individual's failure to report all of his mental health providers on his e-QIP. *Id.* at 1. In addition, the Notification Letter alleged that the Individual provided inaccurate information, i.e., that he (i) denied treatment for bipolar disorder but was prescribed Seroquel - a bipolar medication, (ii) initially denied, then admitted, taking an extra Xanax tablet on an unspecified number of occasions, and (iii) initially denied, then admitted, that his wife had been arrested six times for prescription fraud. *Id.*

The Individual requested a hearing and provided the name of his attorney. DOE Ex. 2. Upon this Office's receipt of the hearing request, I was appointed to serve as the Hearing Officer.

II. The Hearing

The Individual agreed with the diagnosis of polysubstance dependency by history, but maintained that he is rehabilitated. As for the falsification charge, the Individual denied that he intentionally provided incomplete or inaccurate information.

A. Written Evidence

The record includes the reports of DOE Psychiatrists I and II, the 2006 e-QIP, and the transcripts of the two 2007 personnel security interviews. DOE Exs. 3-6. The record also includes the curriculum vitae of the Site Psychologist and of the psychiatrist currently treating the Individual (the Treating Psychiatrist).

B. Testimony

DOE presented one witness - DOE Psychiatrist II. He testified last. The Individual testified and presented six witnesses: his wife, his current supervisor, two friends, the Site Psychologist, and the Treating Psychiatrist.

1. The Individual

The Individual testified that, in 2005, his dependence on prescription drugs was affecting his memory and ability to think clearly. Tr. at 159-60. During 2005 and 2006, he spoke to the Site Psychologist about his condition and rehabilitation programs. Id. at 150-51. He looked into a program in early 2006 but wanted to postpone treatment because of upcoming surgery. Id. After he recovered from his surgery, he entered and completed a program. Id. at 151.

The Individual testified that he has not used any addictive medication since the 2006 treatment. Tr. at 146. He takes two non-addictive medications - Prozac and Wellbutrin - for anxiety and depression. Id. at 150. They are working "terrifically," he has "no problems with anxiety," and his "depression is almost nonexistent." Id. He continues to see the Site Psychologist and the Treating Psychiatrist. Id. at 150-52. Surgery and an exercise program have successfully addressed his physical injuries. Id. at 149-50.

The Individual testified about the benefits of his treatment:

. . . I finally got the answers that I needed to stay off drugs - not just to quit, but to stay off of them, to know what the warning signs are, to know what the triggers are, to know what medications that you can take and what you can't take

Tr. at 146. The program taught him "tools" on how to "live [one's] life" without prescription drugs, such as "positive self-talk" and knowing how to "reason things out." Id. at 146-47. The Individual and his wife are now socializing with friends and active in church. Id. at 169-70.

Finally, the Individual testified that he did not intentionally omit or misstate information during the security clearance process. He did not list all his mental health treatment on the e-QIP, because he had technical problems completing the

electronic form. Tr. at 138-39. He accurately denied treatment for bipolar disorder: he was taking Seroquel for sleeping problems. *Id.* at 131-33. He did not intend to misstate his Xanax use: when the security specialist initially asked whether he had taken more medication than prescribed, he answered in the negative because he thought that she was asking whether he obtained medication from "outside his prescription," rather than whether he had taken an extra dose from his prescription. *Id.* at 173-74. Finally, he did not admit that his wife was arrested six times for prescription fraud, and he does not believe that the statement is accurate. *Id.* at 173-74.

2. The Individual's Wife

The Individual's wife testified that she began to have concerns about her husband's prescription drug use when he was prescribed a new medication and "just wasn't acting right" and became "very disoriented." Tr. at 95. At one point, a friend took the Individual to a treatment program at a church but the program was "more like an aftercare" program, whereas the Individual "needed an inpatient program." *Id.* at 97. The Individual ultimately entered and completed an inpatient program and, two months later, the Individual's wife completed the same program. *Id.* at 99.

The treatment was "eye-opening" and made the Individual's wife realize that "addiction is a disease." Tr. at 99. She described the withdrawal part of her treatment as "probably worse" than her husband's. *Id.* at 109. They have not used addictive prescription drugs since entering the program. *Id.* at 100. They have a new family physician who knows not to prescribe such medication for them. *Id.* at 101.

The Individual's wife described the positive changes since the Individual's completion of the treatment program. She "most definitely" saw a change. Tr. at 98. The Individual became more involved with his family, and she and the Individual joined a church. *Id.* at 98-99. They have become more social and regularly have church members and friends to their house. *Id.* at 99.

The Individual's wife denied the Notification Letter's allegation that she had been arrested six times for prescription fraud. Tr. at 106. She recalled three arrests - one in 1988, a second sometime after that, and a third around 2000 or 2001. She testified that the Individual did not know about all of the arrests, *id.* at 107, that he is an "honest" person, *id.* at 112,

and that she and her husband did not share prescription medications, *id.* at 113.

As for the future, the Individual's wife was optimistic. "We have never been happier." *Tr.* at 116. She cited their success over the last years at dealing with stressors, better communication skills, and their involvement in church. *Id.* at 115-17.

3. The Individual's Current Supervisor

The Individual's current supervisor is a long-time site employee who has supervised the Individual for the past six months. *Tr.* at 70-71. The Individual is "conscientious," works independently with "minimal direction," and is "doing his job well." *Id.* at 71, 73, 77. The supervisor has not seen any behavior indicating a cause for concern. *Id.* at 72. The Individual has always been honest. *Id.* at 75-77.

4. Friends

Friend No. 1 has known the Individual for four years. *Tr.* at 79. They met when the Individual and his wife moved to the friend's neighborhood. *Id.* The Individual told the friend that "he was having difficulties with some of his medications," and the friend noticed that the Individual became less outgoing. *Id.* at 81-82. The friend "definitely" sees a change in the Individual since his treatment program. *Id.* at 82-83. The Individual is "much more focused and able to stay in conversations, more energetic about some of the things he was doing, and, you know, just a different type of personality." *Id.* at 83. The Individual joined the friend's church and has participated in a variety of activities. *Id.* at 81, 88-93. The friend believes that the Individual's church involvement will help prevent a relapse. *Id.* at 87.

Friend No. 2 has known the Individual since before his 2006 treatment program. *Tr.* at 121, 124. Prior to the program, Friend No. 2 saw that the Individual was not happy with his dependence and "wanted to be rid of it." *Id.* at 121. After the Individual and his wife completed their treatment programs, they joined his church. *Id.* Now the Individual is "interested in learning things" and "remembers details." *Id.* at 122. The friend sees the Individual once a week for lunch, which is "fun," on Sundays "quite often," and every month or so at their homes. *Id.* at 128. The Individual is "a happier guy now." *Id.*

at 125. As far as the Individual's honesty, the friend has "never" seen "any guile." *Id.* at 126.

5. The Site Psychologist

The Site Psychologist testified that she counsels employees through the site's Employee Assistance Program. *Tr.* at 7. She also evaluates employees for fitness-for-duty and for eligibility for the Human Reliability Program, see 10 C.F.R. Part 712. *Tr.* at 8, 10.

In 2005, the Individual's supervisor referred him to the Site Psychologist for a fitness-for-duty examination. *Tr.* at 10. The supervisor "spoke very highly" of the Individual's work ethic but was concerned because the Individual appeared "disoriented." *Id.* at 11. The Individual told the Site Psychologist that he was on a number of medications, which she confirmed with his medical providers. *Id.* at 11, 17. In the Site Psychologist's view, the medications were "quite extensive" and the Individual had been taking them for "a long period of time." *Id.* Accordingly, the Site Psychologist recommended to the Individual that he ask his physicians about "some type of detox." *Id.*

Over the next year, the Individual saw the Site Psychologist several times, reporting the discontinuance and then resumption of the medications. *Id.* at 11-13. The Site Psychologist continued to recommend treatment; she also contacted the U.S. Department of Justice, whose records confirmed that the medications at issue were prescribed. *Id.* at 13.

In December 2006, the Individual entered a 28-day residential treatment program. *Tr.* at 14. After completing the program, the Individual returned to work. *Id.* He switched doctors, began weekly psychotherapy, and was prescribed Prozac and Wellbutrin for anxiety and depression. *Id.* at 15. Since then, the Individual has seen the Site Psychologist monthly. *Id.* The Individual has "been incredibly compliant, and his presentation is totally different, very clear-eyed," and he has "gained a tremendous amount of insight." *Id.* The Individual is now active in church, which is "solid support system." *Id.*

The Site Psychologist agreed with the psychiatric evaluation of DOE Psychiatrist II. *Tr.* at 31. Noting the Individual's 14-month abstinence at the time of the hearing, the Site Psychologist opined that the Individual's risk of relapse is now "low." *Id.* at 32.

6. The Treating Psychiatrist

The Treating Psychiatrist testified that the Individual's problems began around 2000 when he was suffering from depression, anxiety, and a physical injury. Tr. at 44. The Individual developed "iatrogenic polysubstance dependence," which is addiction to physician-prescribed medication and sometimes referred to as "physician-induced dependence." *Id.*

The Treating Psychiatrist saw the Individual before his admission to the residential treatment program and has treated him for the past 13 months. Tr. at 45, 53. The Individual's treatment plan is "psychopharmacological," which involves counseling and non-addictive medication for anxiety and depression (Prozac and Wellbutrin). *Id.* at 45. During the last twelve months, the Treating Psychiatrist has ordered a couple of random drug tests, which have been negative. *Id.* at 47.

The Treating Psychiatrist was familiar with the Individual's admission that, prior to 2005, he had on occasion taken a daily dose of four Xanax tablets, rather than the prescribed dose of three. Tr. at 50. The Individual "shouldn't have done that" but it is "not uncommon." *Id.* at 50-51. Xanax is associated with "tachyphylaxis" or "rapidly developing tolerance" and, therefore, patients may take an extra dose "to get the same effect that they initially got." *Id.* at 50-51. The Individual should not have been prescribed Xanax for as long as he was and, therefore, "we physicians at some level were responsible there." *Id.* at 51.

The Treating Psychiatrist also addressed the Notification Letter's allegation that the Individual's denial of treatment for bipolar disorder was inconsistent with his 2005 Seroquel prescription. DOE Ex. 1 (Att. ¶ I.A.). The psychiatrist testified that the Individual does not suffer from bipolar disorder and that some physicians prescribe Seroquel for sleep problems. Tr. at 48, 66.

The Treating Psychiatrist agreed with the report of DOE Psychiatrist II. It was a "very nicely written report," with a fact-based approach. Tr. at 52. The Treating Psychiatrist "totally" agreed that 12 months of abstinence was necessary to establish rehabilitation, citing the DSM-IV standard for "complete sustained remission." *Id.* at 52-53. Once a patient is substance free for 12 months, they are almost "at par with the general population." *Id.* at 54. As for the issue of anxiety and depression, the Individual is "very happy," his

relationship with his wife is "getting better and better," and there is some consideration of taking him off his medication in the future. *Id.* at 59.

7. DOE Psychiatrist II

DOE Psychiatrist II was present throughout the hearing. After listening to the testimony, he updated his opinion.

DOE Psychiatrist II testified that the Individual had demonstrated adequate evidence of reformation and rehabilitation from his polysubstance dependence. From the psychiatrist's point of view, "this has been a comprehensive hearing" in which "everything was covered quite thoroughly and satisfactorily." Tr. at 177. The Individual "has overcome a really serious substance dependency problem," and the Site Psychologist and Treating Psychiatrist are providing "state-of-the-art, cutting edge, excellent treatment." *Id.* DOE Psychiatrist II cited the testimony of the couple's recovery programs, their abstinence (14 months for the Individual and almost a year for his wife), and their stabilized marriage. *Id.* With the Individual's medications for anxiety and depression, his symptoms are "in complete remission at the present time." *Id.* at 178. Finally, DOE Psychiatrist II noted that the Individual and his wife "have much healthier lives" and that the wife's legal problems are behind her. Given the foregoing, DOE Psychiatrist II opined that the Individual is "adequately rehabilitated at the present time." *Id.*

DOE Psychiatrist II also addressed the allegation that the Individual's denial of treatment for bipolar disorder was inconsistent with his 2005 Seroquel prescription. DOE Psychiatrist II testified that it is not uncommon to prescribe Seroquel for sleeping problems and that the prescribing psychiatrist "apparently used it in that way, not for bipolar." Tr. at 66-67. He conjectured that the prescribing psychiatrist chose Seroquel for the Individual because it has no addictive potential. *Id.* at 67.

III. Applicable Regulations

The regulations governing an individual's eligibility for access authorization are set forth at 10 C.F.R. Part 710, "Criteria and Procedures for Determining Eligibility for Access to Classified Matter or Special Nuclear Material." An individual is eligible for access authorization if such authorization "would not endanger the common defense and security and would be clearly

consistent with the national interest." 10 C.F.R. § 710.7(a). "Any doubt as to an individual's access authorization eligibility shall be resolved in favor of the national security." *Id.* See generally *Dep't of the Navy v. Egan*, 484 U.S. 518, 531 (1988) (the "clearly consistent with the interests of national security" test indicates that "security-clearance determinations should err, if they must, on the side of denials"); *Dorfmont v. Brown*, 913 F.2d 1399, 1403 (9th Cir. 1990) (strong presumption against the issuance of a security clearance).

If a question concerning an individual's eligibility for a clearance cannot be resolved, the matter is referred to administrative review. 10 C.F.R. § 710.9. The individual has the option of obtaining a decision by the manager at the site based on the existing information or appearing before a hearing officer. *Id.* § 710.21(b)(3). At a hearing, the burden is on the individual to present testimony or evidence to demonstrate that he is eligible for access authorization, i.e., that access authorization "will not endanger the common defense and security and will be clearly consistent with the national interest." *Id.* § 710.27(a).

IV. Analysis

A. Criterion K

The Individual does not dispute the diagnosis of polysubstance dependence. Instead, he maintains that he has continued his successful recovery and is now rehabilitated.

The adjudicative guidelines discuss ways to mitigate a drug-related problem. One way is by showing "satisfactory completion of a prescribed drug treatment program, including but not limited to rehabilitation and aftercare requirements, without recurrence of abuse, and a favorable prognosis by a duly qualified medical professional." See Revised Adjudicative Guidelines for Determining Eligibility for Access to Classified Information (issued on December 29, 2005 by the Assistant to the President for National Security Affairs, The White House) (the Adjudicative Guidelines), Guideline H, ¶ 26(d).

The Individual has presented the type of mitigating evidence referred to in the Adjudicative Guidelines. It is undisputed that the Individual completed a 28-day residential treatment program in December 2006. The Individual testified that he has been abstinent from addictive medication since then. See, e.g.,

Tr. at 146. The testimony of his witnesses - his wife, friends, and medical professionals - corroborate his testimony. They testified that before the treatment program he was experiencing difficulties, including disorientation, and that since the treatment program, he is alert and has increased energy, an active church and social life, and a positive attitude. See, e.g., Tr. at 100 (wife); 81-87 (Friend No. 1); 122-23, 125 (Friend No. 2); 15, 32 (Site Psychologist); 45, 47, 53 (Treating Psychiatrist). All three medical professionals - the Site Psychologist, the Treating Psychiatrist, and DOE Psychiatrist II - have opined that the Individual is now rehabilitated. Tr. at 32 (Site Psychologist); 53-54 (Treating Psychiatrist); 111-12 (DOE Psychiatrist II). Accordingly, the Individual has presented sufficient evidence to mitigate the concern arising from his history of polysubstance dependence. Adjudicative Guideline H, ¶ 26(d); *Personnel Security Hearing*, TSO-0048, 28 DOE ¶ 82,940 (2003) (polysubstance dependence). See generally *Personnel Security Hearing*, TSO-0543, 30 DOE ¶ 82,765 (2008) & *Personnel Security Hearing*, TSO-0369, 29 DOE ¶ 82,995 (2007) (low risk of relapse resolves concern about judgment and reliability).

The remaining Criterion K concerns are also resolved. Although the Notification Letter alleged that the Individual admitted that his doctors did not share information with each other about his prescription medications, DOE Ex. 1 (Att. at 1, *citing* DOE Ex. 5 at 7-58), I could not find such an admission or evidence of its implication - that the Individual utilized multiple doctors to obtain excessive medication. In fact, it appears that the Individual changed counselors and psychiatrists over time in an effort to receive effective treatment. See, e.g., DOE Ex. 7 at 6-8. In any event, the Individual's rehabilitation resolves any such concern. Finally, although the Notification Letter correctly notes that the Individual admitted to taking an extra dose of Xanax on some unspecified number of occasions, the Individual's rehabilitation resolves this concern.

B. Criterion F

It is undisputed that deliberately omitting or misstating information in the security clearance process raises a Criterion F concern. See 10 C.F.R. § 710.8(f). The Individual disputes that he deliberately omitted or misstated information.

The Individual does not dispute the allegation that he failed to list all his mental health treatment on the e-QIP. Instead, the Individual contends that when he completed the form, he

encountered technical difficulties and did not intend to conceal that he had had other mental health providers over the prior seven years. Tr. at 138-39.

As an initial matter, it is unclear to me, from the e-QIP print-out, how the Individual would have accessed additional entry blanks in which to list additional providers. The 2006 e-QIP asks whether, in the last seven years, an individual has consulted with a mental health professional or other health care provider about a mental health condition. DOE Ex.6 at 23-24. If the answer is "yes," the form asks for the name and address of each provider and the date of treatment. The Individual's 2006 e-QIP shows a "yes" answer and one entry, with the name of a psychiatrist, his address, and treatment from "01/2006" to the "present." How the Individual would have accessed additional entries is unclear.

In any event, the Individual's testimony that he did not intend to conceal his prior mental health treatment is consistent with the record. In 2001, the Individual disclosed his treatment to DOE Psychiatrist I, including the medications at issue here. DOE Ex. 11 at 1-2. The Site Psychologist testified that, when she first saw the Individual in 2005, he informed her of his medications, and his doctors and federal records confirmed what he had told her. Tr. at 11-13. On the e-QIP, he disclosed his current treatment. DOE Ex. 6 at 24. Six months later, he informed the Site Psychologist and his supervisor of his decision to enter a residential treatment program. *Id.* at 14, 140. Finally, in 2007, the Individual provided extensive details concerning his history of prescription drug dependence in the personnel security interviews and the psychiatric evaluation. Based on the foregoing, I find that the Individual did not "deliberately" omit information from the e-QIP.

I also find that the Individual's denial of treatment for bipolar disorder is not inconsistent with his 2005 Seroquel prescription. As an initial matter, I question the relevancy of this alleged inconsistency since it is undisputed that the Individual does not suffer from bipolar disorder. In any event, the Individual testified that he was prescribed Seroquel for sleeping problems. Tr. at 131-33. His testimony is consistent with the LSO's summary of his medical records, DOE Ex. 7 at 5, and Seroquel's "off-label" use as a sleep aid, Tr. at 66-67 (Treating Psychiatrist and DOE Psychiatrist II). Accordingly, the evidence indicates that the Individual did not lie when he denied treatment for bipolar disorder.

I further find that the Individual's description of his Xanax dosage does not represent an intent to deceive. The Individual testified that, when first questioned, he thought he was being asked whether he had taken medication in addition to that obtained through his prescription, and he truthfully answered that he did not. Tr. at 173-74. In the second interview, he understood the question to be whether he had ever taken more than the prescribed dose, and he answered in the affirmative because prior to 2005 he had, on occasion, taken four Xanax tablets, rather than the prescribed daily dose of three. *Id.* This explanation, together with the Individual's extensive disclosures and admissions regarding his prescription drug dependency, lead me to conclude that the Individual's misunderstanding was genuine and that he did not "deliberately" misstate his use of Xanax.

Finally, I find no basis for the allegation that the Individual attempted to deceive the security specialist about his wife's arrest record. Although the Notification Letter alleges that the Individual initially stated that his wife had one arrest for prescription fraud and "only moments later" acknowledged six such arrests, DOE Ex. 1 (Notification Letter Att. ¶ I.D.), DOE counsel stated that he saw no basis for the allegation, Tr. at 103-04, and the record does not support that allegation. The Individual discussed two arrests for which his wife was incarcerated - a 1995 arrest for embezzlement and a 2000 or 2001 arrest for prescription fraud. DOE Ex. 4 at 61-67. When told by the security specialist that his wife had six arrests for prescription fraud, he expressed surprise and mentioned three or four arrests for driving while intoxicated (DUI), the most recent of which was 1988. *Id.* at 68-69. Accordingly, the Individual did not - as the Notification Letter alleges - make inconsistent statements concerning his knowledge of wife's arrest record.

V. Conclusion

The Notification Letter's Criteria K and F concerns have been resolved. Accordingly, access authorization "would not endanger the common defense and security and would be clearly consistent with the national interest." 10 C.F.R. § 710.7(a). Based on the foregoing, the Individual's suspended access authorization should be restored. Any party may seek review of this Decision

by an Appeal Panel under the procedures set forth at 10 C.F.R.
§ 710.28.

Janet N. Freimuth
Hearing Officer
Office of Hearings and Appeals

Date: April 30, 2008